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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,383	03/11/2005	Stephen D. Newman	40302-0033	5729
37526 7590 07/20/2009 RADER, FISHMAN & GRAUER PLLC 10653 SOUTH RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095				
EXAMINER REYNOLDS, STEVEN ALAN				
ART UNIT 3728		PAPER NUMBER		
MAIL DATE 07/20/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,383

Applicant(s)

NEWMAN ET AL.

Examiner

Steven Reynolds

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 77, 85 and 99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 77, 85 and 99 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Upon further consideration of the prior art of record and applicant's argument, the finality of the previous Office Action is withdrawn and a new final rejection is proper. The amendment filed 6/29/2009 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanical timer switch comprising a leg-like extension disposed at a bottom surface of the receptacle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 77 is objected to because of the following informalities: In line 13, "more receptacles." should be "more receptacles, ". Each claim must only contain one period. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 77, 85 and 99 are rejected under 35 U.S.C. 102(b) as being anticipated by Artis (US 5,699,900). Regarding claim 77, Artis discloses a reusable holder (10) for contact lens cases comprising: a base (base portion 10 in Fig. 1); one or more receptacles (opening/cavity 12 is considered a receptacle) formed in said base configured to receive a contact lens case (holder 34 is considered a contact lens case); and a time keeping device (counter 40); wherein the time keeping device comprises an indicator for each one or more receptacles that can indicate a period of time that has

elapsed since the contact lens case currently in the receptacle was placed therein to denote a need to discard said contact lens case and a contact lens associated with said contact lens case; wherein said one or more receptacles configured to receive a contact lens case includes: a contact lens case engagement surface (threaded surface at 12 – See Fig. 1) formed on said one or more receptacles configured to lock said contact lens case in said one or more receptacles; and an actuator (button 42) formed in said base, wherein said actuator is configured to be triggered and reset said time keeping device when a contact lens case is received in said one or more receptacles, further comprising at least one contact lens case (34); wherein the contact lens case comprises a bottom member (38) having a well with a generally concave shape; wherein the contact lens case has a top (20) and a bottom (39); and wherein the bottom of the contact lens case is placed in the receptacle and then rotated 90 degrees to snap the bottom of the case into the receptacle (when the contact lens case is placed on the base 10, the cap can be rotated 90 degrees to engage the threads on the base).

Regarding claims 85 and 99, Artis discloses a reusable holder for contact lens cases comprising: a base (base portion 10 – See Fig. 1); one or more receptacles (opening/cavity 12 is considered a receptacle) get formed in said base configured to receive a contact lens case (holder 34 is considered a contact lens case); and a time keeping device (counter 40); wherein the time keeping device comprises an indicator for each one or more receptacles that can indicate a period of time that has elapsed since the contact lens case currently in the receptacle was placed therein to denote a need to discard said contact lens case and a contact lens associated with said contact lens

case; wherein said one or more receptacles configured to receive a contact lens case includes: a contact lens case engagement surface (threaded surface at 12 – See Fig. 1) formed on said one or more receptacles configured to lock said contact lens case in said one or more receptacles; and an actuator (button 42) formed in said base, wherein said actuator is configured to be triggered and reset said time keeping device when a contact lens case is received in said one or more receptacles; wherein said actuator comprises a mechanical timer reset switch disposed in said one or more receptacles; and wherein said mechanical timer reset switch is configured to engage a surface of a contact lens case being inserted into said receptacle and automatically reset the time keeping device when a contact lens case is inserted into the receptacle; and said mechanical timer reset switch comprises a leg-like extension (42 can be considered leg-like as it extends from 40) disposed at a bottom surface of said receptacle.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Reynolds whose telephone number is (571)272-9959. The examiner can normally be reached on Monday-Friday 9:30am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. R./
Examiner, Art Unit 3728

/JILA M MOHANDESI/
Primary Examiner, Art Unit 3728